

REMARKS / ARGUMENTS

FORMER CLAIMS 1-26 have been CANCELLED and NEW CLAIMS 27-41 are now in the case.

The claims have now been amended to more particularly point out and distinctly claim applicant's invention.

Support for the amendments to the claims occurs at, e.g., paragraphs [0039] - [0042], and [0048] - [0121], as originally filed.

THE REJECTIONS

The Examiner *provisionally* ("if the applicant has omitted a reaction step [then], the following rejection is necessary...") rejected claims 1-5, 7-12, and 14-26 under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement.

The Examiner *provisionally* ("If, on the other hand, the reaction proceeds as described in the specification with nothing more than mixing the fertilizer and sulfamic acid components, then the following rejections are necessary:") made further rejections as follows:

The Examiner *provisionally* rejected claims 1, 2, 5, 7, 8, 11, 12, 14, 15, 18, 20, 21, 22, 25, and 26, under 35 U.S.C. 102(a), (b) and (e) as being anticipated by Woodhouse (US 2,237,826)...

The Examiner *provisionally* rejected claims 7-12 and 21-26 under 35 U.S.C. 102(a), (b) and (e) as being anticipated by Kirk-Othmer...

The Examiner *provisionally* rejected claims 7 and 9-12 under 35 U.S.C. 102(a), (b) and (e) as being anticipated by Fischer (US 3,321,273)...

The Examiner *provisionally* rejected claims 7, 9 and 14 under 35 U.S.C. 102(a), (b) and (e) as being anticipated by Shibe et al (US 3,344,018)...

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The Examiner *provisionally* rejected claims 1-5, 7-12 and 14-26 under 35 U.S.C. 103(a) as being unpatentable over the combined teaching of Woodhouse (US 2.237,826) and Kirk Othmer...

TRAVERSAL OF THE REJECTION

Applicant, in good faith, believes that the examiner's *provisional* rejections as listed above, have been mooted by the newly amended claims.

Applicant believes that the examiner's provisional rejection under the enablement clause of 35 U.S.C. 112, first paragraph is misplaced. The fundamental reaction of the present invention is a well known; acid/base, substantially isothermal; that reacts spontaneous at room temperature. Thus the enablement rejection is untenable.

All claims have been positively limited to the long felt problem recognized in the prior art and applicant's solution to that problem. Namely: how to create a tailored water based, calcium containing composition wherein the calcium can be maintained in solution for long periods of time while the solution is stored (e.g. for months). By tailored, the applicant means: to tailor (or customize) a liquid fertilizer composition of a water solution stable solution to accommodate the macronutrient and/or micronutrient deficiencies of any system supporting living cells so that merely by applying the solution to the system, these deficiencies will be corrected.

Applicant believes in good faith, that the newly presented claims have been positively limited to this problem and solution, and that none of the prior art references applied by the Examiner to the former claims of record can meet the limitations of the new claims.

For instance: new claim 27, drawn to a method for correcting macronutrient and micronutrients deficiencies in a system for supporting living cells, is limited to (1) determining deficiencies in the concentrations of macronutrient and micronutrients within

said system for supporting living cells; (2) forming a composition...sufficient to correct said deficiencies; and (3) contacting said system with said composition sufficient for correcting said deficiencies. Applicant respectfully submits that none of the prior art references cited by the Examiner can, either singly or in any combination thereof, meet these limitations

Claim 32. draw to a composition for correcting macronutrient and micronutrients deficiencies in the concentrations of macronutrient and micronutrients within a system for supporting living cells after said deficiencies have been determined; is positively limited to calcium sulfamate [and other components]...in respective proportions...to correct said deficiencies after said deficiencies have been determined. Applicant respectfully submits that none of the prior art references cited by the Examiner can, either singly or in any combination thereof, meet these limitations.

Claim 37. drawn to a *method for forming a composition* has now been positively limited in substance to the steps of: (a) *determining deficiencies* in the concentrations of macronutrient and micronutrients within said system for supporting living cells; (b) *forming a composition* comprising the product of a moderately water soluble first compound *including a sulfamic moiety and a substantially water insoluble second compound* including macronutrient and/or micronutrient moieties chemically reacted sufficient to *form water solution-stable macronutrients and/or micronutrients products* in concentration or concentrations sufficient to correct said deficiencies; *and contacting said system with said composition sufficient for correcting said deficiencies*. Applicant respectfully submits that none of the prior art references cited by the Examiner can, either singly or in any combination thereof, meet these limitations

With respect to the composition present claim, application of the composition to a system solves one of the thorniest problems in horticulture, agriculture and cell culture; namely sequestering calcium and sulfur so as to preclude them from combining to form

gypsum. This invention addresses that problem most elegantly. The *FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS* has recognized this problem in a document posted at their website <http://www.fao.org/>, and attached hereto.

OTHER MATTERS

MPEP 1208.02, entitled "Reopening of Prosecution After Appeal," provides in pertinent part:

"The examiner may, ***with approval from the supervisory patent examiner***, (bold emphasis added) reopen prosecution to enter a new ground of rejection after appellant's brief or reply brief has been filed. The Office action containing a new ground of rejection may be made final if the new ground of rejection was (A) necessitated by amendment, or (B) based on information presented in an information disclosure statement under 37 CFR 1.97(c) where no statement under 37 CFR 1.97(e) was filed. See MPEP § 706.07(a)."

In the present case, there is no apparent indication that the examiner sought the approval of his supervisory examiner, before withdrawing applicant's appeal brief.

Form paragraph 12.81 may be used when reopening prosecution: Entitled: "¶ 12.81 Reopening of Prosecution - New Ground of Rejection After Appeal or Examiner's Rebuttal of Reply Brief," provides:

"In view of the [1] filed on [2], PROSECUTION IS HEREBY REOPENED. [3] set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2)."

The Examiner failed to provide applicant with a Form paragraph 12.81. Applicant believes that the Examiner's actions and/or inactions as indicated above are improper.

For any or all of the forgoing reasons, it is respectfully submitted that the claims as presently amended should be allowed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Walter H Runkis', written over a horizontal line.

Walter H Runkis
POB 593
Botsford, CT 06404
203-445-9975